



California Fair Political Practices Commission

November 21, 1989

Larry Montna, Supervisor
Sutter County Board of Supervisors
Sutter County Office Bldg.
463 Second Street
Yuba City, CA 95991

Re: Your Request for Informal Assistance
Our File No. I-89-615

Dear Mr. Montna:

You have requested advice regarding your obligations under the conflict-of-interest provisions of the Political Reform Act (the "Act").¹ Since your letter does not involve a specific question, we are treating your request as one for informal assistance.²

QUESTION

What are your obligations under the Act's conflict-of-interest provisions with respect to sources of income to you of \$250 or more.

CONCLUSION

You may not participate in any decision which will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on any source of income of \$250 or more in the 12 months prior to the decision.

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329 (c)(3).)

FACTS

You own a farm equipment repair business. In some cases, repairs exceed \$250. You have a customer list of approximately 700 customers.³

ANALYSIS

The Act prohibits a public official from participating in a governmental decision in which the official has a financial interest. (Section 87100.) An official has a financial interest in a decision if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on any source of income aggregating \$250 or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made. (Section 87103(c).)

You have indicated that at a recent conference you were told of a "variance" to the \$250 disqualification threshold with respect to businesses which provide goods and services. I believe you are referring to provisions involving the manner in which the "public generally" exception is applied to customers of a retail business.

The Public Generally Exception

As indicated above, a public official may still participate in a decision which will have a material financial effect on a source of income if the decision will have a similar effect on the "public generally." For the public generally exception to apply, a decision must affect the official's interests in substantially the same manner as it will affect a significant segment of the public. (Regulation 18703, copy enclosed.)

Section 87103.5 provides a very specific "public generally exception" for retail businesses where customers of the business constitute a significant segment of the public, and the income received from the specific source of income involved in the decision is not distinguishable from income received from other retail customers. Regulation 18703.5 (copy enclosed) defines "significant segment" for the purposes of Section 87103.5 as follows:

- (1) The retail customers of the business entity during the proceeding 12 months are suf-

³ These facts are based upon your letter and upon our telephone conversation of October 31, 1989.

ficient in number to equal 10 percent or more of the population or households of the jurisdiction; or

(2) The retail customers of the business entity during the proceeding 12 months number at least 10,000.

You have indicated that you have approximately 700 customers. The population of Yuba County exceeds 56,000. Accordingly, based on the small number of customers of your business, Regulation 18703.5 is not applicable.

You have also requested copies of informational materials related to this topic. I have enclosed a copy of the Commission's recently updated pamphlet on the conflict-of-interest provisions of the Act. I believe you will find it to be extremely helpful.

If you have any questions, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel

By: John G. McLean
Counsel, Legal Division

KED:JGM:aa

Enclosure

BOARD OF SUPERVISORS COUNTY OF SUTTER

SUTTER COUNTY OFFICE BLDG.
YUBA CITY, CALIFORNIA 95991

463 SECOND STREET
(916) 741-7106



October 19, 1989

Oct 21 9 50 AM '89
FPPC

Fair Political Practices Commission
P. O. Box 807
Sacramento, CA 95804-0807

Gentlemen/Ladies:

At a conference I attended recently, the topic of variances to the \$250 income limit was discussed.

Inasmuch as I provide services and goods in my line of work, which, in some instances, exceed the \$250 limit, I would appreciate receiving additional information pertaining to the variance of the \$250 limit.

Will you please forward me publications, brochures, and related materials pertaining to the \$250 limit.

Sincerely,

Larry Montna, Supervisor
First District

ps

MEMBERS OF THE BOARD

LARRY MONTNA
JOE BENATAR
TOM PFEFFER
RON SOUTHARD
BARBARA LeVAKE

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

COUNTY ADMINISTRATOR:
LARRY T. COMBS

CLERK OF THE BOARD:
LONNA SMITH

REGULAR MEETINGS ARE HELD TUESDAY OF EACH WEEK



California Fair Political Practices Commission

October 26, 1989

Honorable Larry Montna
Sutter County Supervisor
Sutter County Office Building
462 Second Street
Yuba City, CA 95991

Re: Letter No. 89-615

Dear Mr. Montna:

Your letter requesting advice under the Political Reform Act was received on October 25, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John McLean an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, reading "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel

KED:plh